IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.67 OF 2007

Dr.Ramdas Bhanudas Gaikwad. ...Petitioner.
Versus
1. The State of Maharashtra, &
2. Mr.Nathiram Gunanand Jakhmola. ...Respondents.

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Mr.Rohidas Bhanudas Gaikwad, brother of petitioner, present in-person.
Mr.Nathiram Gunand Jakhmola, Respondent No.2 present in-person.

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CORAM : SMT.V.K.TAHILRAMANI,J.
DATED : 4th May, 2007.

P.C.:

1. Respondent No.2-orig.complainant Mr.Nathiram Gunand Jakhmola who is present in Court states that an amount of Rs.1 lac has been handed over to him in cash.

2. The petitioner is facing prosecution under Section 138 of N.I.Act. By judgment and order dated 28th March, 2005 passed in Case No.314/SS/2005, the learned Metropolitan Magistrate, 7th Court, Dadar, Mumbai, convicted the petitioner for the offence under Section 138 of N.I.Act and sentenced him to suffer RI for six months and to pay fine of Rs.7,00,000/-. Out of the said amount, Rs.6,50,000/- was to be paid to the complainant by way of compensation. Being aggrieved thereby, the petitioner preferred Criminal Appeal No.56 of 2005.

The said Appeal came to be dismissed by the learned Ad-hoc Additional Sessions Judge, Court No.10, Sewree, Mumbai. Being aggrieved thereby, the present Revision has been preferred.

3. During pendency of the Revision, settlement has been arrived at between the parties. Respondent No.2-orig.complainant was present before this Court on 4th April, 2007 and he has stated that he is agreeable to settle the matter for Rs.6 lacs. The petitioner has already deposited Rs.3 lacs in the trial Court and the complainant was allowed to withdraw the said amount by order dated 4th April, 2007.

4. On 4th April, 2007, the learned Advocate for the petitioner - orig.accused, on instructions from the petitioner who was present in Court, further stated that the petitioner will hand over Rs.1 lac to the complainant on 3rd May, 2007 and the remaining amount of Rs.2 lacs will be deposited by the petitioner in this Court by 31st August, 2007.

5. Today, the complainant states that an amount of Rs.1 lac has been handed over to him in cash. He has further stated that he will withdraw the amount of Rs.3 lacs which have been deposited by the petitioner before the trial Court. He has further stated that

if Rs.2 lacs is deposited by the petitioner in this Court by 31st August, 2007 and if he is permitted to withdraw the same, he does not wish to continue with the prosecution and the prosecution against the petitioner may be quashed.

6. In view of the above statement, the proceedings against the petitioner are quashed and the petitioner is acquitted therein. It is made clear that on the petitioner depositing Rs.2 lacs before this Court by 31st August, 2007 the complainant is permitted to withdraw the said amount without any security. It is further made clear that if the applicant does not deposit the amount of Rs.2 lacs before this Court by 31st August, 2007, this order shall stand automatically vacated and the petitioner can be taken into custody.

7. As far as the fine amount of Rs.50,000/- which has been imposed by the learned Magistrate is concerned, the said fine amount is reduced to Rs.5,000/-. The applicant shall deposit the fine of Rs.5,000/- before the trial Court by 31st August, 2007.

8. Revision Application is disposed of accordingly.

(SMT.V.K.TAHILRAMANI,J.)